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**FINAL**  
**THE STATE OF MONTANA'S RESPONSES**  
**TO PUBLIC COMMENTS ON THE DRAFT 2003**  
**UPPER CLARK FORK RIVER BASIN**  
**RESTORATION WORK PLAN**

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## Acronyms

Advisory Council	Upper Clark Fork River Basin Remediation and Restoration Education Advisory Council
ADLC	Anaconda-Deer Lodge City-County Government
ARCO	Atlantic Richfield Company
B-SB	Butte Silver Bow City-County Government
CERCLA	Comprehensive Environmental Response Compensation and Liability Act
CFC	Clark Fork Coalition
CFR	Clark Fork River
DEQ	Department of Environmental Quality
EPA	Environmental Protection Agency
FWP	Fish, Wildlife and Parks
NRCS	Natural Resource Conservation Service
NRD	Natural Resource Damage
NRDP	Natural Resource Damage Program
RDP	Restoration Determination Plan
RPPC	UCFRB Restoration Plan Procedures and Criteria
UCFRB	Upper Clark Fork River Basin
USFS	United States Forest Service
WRC	Watershed Restoration Coalition

# **STATE OF MONTANA'S RESPONSES TO PUBLIC COMMENTS ON THE DRAFT 2003 UPPER CLARK FORK RIVER BASIN RESTORATION WORK PLAN (December 2003)**

## **Introduction**

On September 11, 2003 the State of Montana released for public comment its *Draft 2003 Upper Clark Fork River Basin Restoration Work Plan (Draft Work Plan)*. The State advertised the release of this *Draft Work Plan* for public comment in several newspapers in the Upper Clark Fork River Basin (UCFRB) and sent the *Draft Work Plan* to various libraries in the UCFRB. In addition, the State sent either copies of the *Draft Work Plan* or notices that the *Draft Work Plan* was available to more than one hundred individuals or entities that, in the past, have demonstrated a special interest in this matter. Those individuals included grant applicants, members of the UCFRB Remediation and Restoration Education Advisory Council (Advisory Council), environmental groups, and local governmental entities in the Basin.

A total of 44 individuals, including representatives of six entities, submitted official comments during the public comment period. The State held one public hearing on the *Draft Work Plan*. Seventeen individuals commented at the Butte hearing held on September 23, 2003. The State received 27 comment letters before the public comment period closed on October 14, 2003. Appendix 1 provides copies of the public comment letters and hearing transcripts.

This document provides the State's responses to these comments. The State's Natural Resource Damage Program (NRDP) prepared these responses on behalf of the Trustee Restoration Council and the Governor.

Each of the comment letters and hearing comments have been numbered and each comment has been assigned an alphabetic designation so that readers of this document can readily refer to the precise text of the various comments to which the NRDP is responding. Similar comments are listed and addressed together; other comments are listed and addressed individually. Under the "Category" and "Comment" headings, the NRDP summarizes these comments. The State's response to comments, under the "Response" heading, indicates what changes, if any, will be made to the *Draft Work Plan* and incorporated into the *Final 2003 Upper Clark Fork River Basin Restoration Work Plan (Final Work Plan)*.

The State received 5 additional comment letters after the public comment period ended. Appendix 2 provides a copy of those letters. Although the State does not respond to these letters directly, the subject matter of these letters was similar to other comments received that are addressed in this document.

Appendix 3 contains the letters that were received before the *Draft Work Plan* was submitted for public comment; these letters were summarized in the *Draft Work Plan*.

**CATEGORY 1: Support for the Thompson Park Project.** The NRDP received 27 comments from 15 individuals and 6 entities supporting the Thompson Park Project. (See letters 1, 2, 4, 5, 7, 9, 10, 14, 15, 27D and hearing comments PH-1, PH-2C, PH-3, PH-4, PH-5A, PH-6, PH-7, PH-8, PH-9A, PH-10A, PH-11, PH-12, PH-13, PH-14, PH-15E, PH-16A, PH-17.) While most commentators supported the NRDP's partial funding recommendation in the *Pre-Draft Work Plan* for the recreational site and road and bridge improvements, a few supported all aspects of the proposal as submitted. Reasons provided for support include, but are not limited to:

- Citizens of Butte-Silver Bow (B-SB) and the many visitors have come to rely on the Thompson Park area for passive and active recreation. Proposed improvements to the area are critical for the public's future enjoyment.
- The proposal would improve and make safer the public access by replacing old restrooms, picnic tables and picnic areas. The project would define areas of use and thus protect the natural beauty and resources in the park.
- A revitalized Thompson Park would offer varied and invaluable recreational opportunities to the people of Butte and would be extremely popular. The city does not presently have any wooded parks offering shade and natural surroundings such as those at Thompson Park.
- A repaired Thompson Park would create a better recreational outlet, complement trails associated with clean-up areas, and entice business to come to Butte.
- Thompson Park was historically a place of respite and outdoor enjoyment. It was a favorite recreational spot for Butte families in the past and can be so again with the proposed improvements.
- Funding the project would improve the condition of roads and bridges and go a long way to alleviate sedimentation problems associated with the current condition of the facilities.
- The project will restore the headwaters of Silver Bow Creek by reducing sediment inputs.
- The Thompson Park area is a valuable resource area for horseback riders close to Butte. Area horsemen are willing to help maintain the trails.
- The Thompson Park area is a great place to recreate and to enjoy nature. There are woodpeckers, flickers, other birds, and wild animals. It's also a great place to exercise pets. The park provides a place for the entire population, especially low-income people, to be able to get away and enjoy nature close to Butte.
- The project will make the natural resources available to kids and older people. This project will provide replacement recreational opportunities for a broader use of people than many of the other projects that have been previously funded.
- The proposed improvements will help control the spread of noxious weeds.

- The park is unique in its joint management by the U.S. Forest Service (USFS) and B-SB. It is the only park dedicated through federal legislation as a municipal park for a local community. Funding it will not open the floodgates to applications to improve USFS recreational facilities elsewhere.
- The Thompson Park area is an important thoroughfare in southwest Montana and the recent investments made by the Montana Department of Transportation and the USFS to improve this transportation corridor complement this project.
- A connection does exist between this proposal and mining impacts. The Butte community has suffered a great share of the impacts to natural resource-based recreational opportunities that resulted from mining and smelting activities in and near Butte. Mining destroyed the natural areas in Butte. It also destroyed many parks in Butte, such as the Columbia Gardens.
- The proposal involves exemplary cooperation between B-SB and the USFS. B-SB and the USFS have committed their resources to finalize a revised cooperative agreement between the two agencies and the requisite management and maintenance plan to protect the investments that would be made by the NRDP and cooperating partner in the long-term.
- The matching funds by B-SB and the USFS are significant and both agencies have contributed significant monies in the past.<sup>1</sup> It is not that the recreational facilities weren't maintained; they just wore out. They were installed in the 1950's and had a design life of 20 years. Even if these facilities were kept in perfect condition, they would still need to be replaced to meet today's sanitation and handicap access standards.

One commentator supports funding the Thompson Park proposal conditionally, stating a preference to having mine wastes cleaned up first. (See letter 15.) Since the areas the commentator identifies as needing cleanup listed are areas that will be remediated, this comment was considered as supportive of the proposal.

A few commentators also indicate support for future proposals for the natural resource habitat improvements and trail improvements that were not initially recommended for funding in the *Pre-Draft Work Plan*. (See public hearing comments PH-1, PH5B, PH-14, PH-15E.) One of these commentators advocates that any funding granted this year be considered as a match for future applications and warns against requiring a double match. (See hearing comment PH-15E).

Prior to the public comment period, the NRDP received 31 additional letters of support from 18 individuals and 11 entities and a petition signed by 96 individuals in support of project funding. Those comments are provided in Appendix 3.

**RESPONSE:** The *Draft Work Plan* generally covers the benefits of this project highlighted by these comments under the "Relationship of Expected Costs to Expected Benefits" criterion and other criteria discussions. Therefore, no changes will be made to these criteria evaluations based on these comments.

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<sup>1</sup> The figures this commentator provided are reflected in an updated fact sheet on past contributions to Thompson Park maintenance and upgrades by B-SB and the USFS that is provided in Attachment 1.

These commentators' support of the Thompson Park project will be noted in the *Final Work Plan* under the NRDP's analysis of the "Public Support" criterion of this project in Appendix B. The *Draft Work Plan* already recognizes the strong public support for this proposal. Based on all the public comments received on this project, there is significantly more public support than opposition. However, since the NRDP received several public comments in opposition to the project (see Category #5), the summary characterization of the public support for this project in the *Final Work Plan* will note that there is broad support primarily from the Butte area (59 letters/comments and 96 signatories on petition total) but also moderate opposition from others (12 letters total).

In its pre-draft funding recommendation, the NRDP recommended partial funding of \$525,000 for the rehabilitation of recreational sites and access components within Thompson Park. Most of these comments provide additional justification for this partial funding recommendation. Despite this public support and the NRDP's continued support of partial funding as a result of public comment, the Trustee Restoration Council decided not to recommend funding the project for reasons that are addressed in the NRDP's response to comments in opposition to this project under Category #5. (See pp. 6-9.) The Governor agreed with the final recommendations of the Trustee Restoration Council, including their recommendation not to fund the Thompson Park project.

The NRDP followed up with B-SB and the USFS regarding the comment concerning "double counting" matching funds. Initially, the applicants requested \$1.86 million with \$1.28 million requested in restoration funds (69%) and \$579,000 (31%) to be provided in matching funds. When the NRDP recommended only partial funding for \$525,000, we assumed that the same amount of matching funds would be set forth for the reduced proposal, so the matching funds under this scenario would have increased to 52%. This assumption was incorrect, since some of the matching funds to be sought were for aspects of the project such as trail improvements that the NRDP did not recommend for funding. Thus, after consultation with B-SB, the matching funds for the NRDP's partial funding recommendation are \$377,500, or 42% of the total cost for the recreational sites and access component improvements. The breakdown for the \$377,500 in matching funds is as follows: \$156,000 for a pavilion; \$188,000 for in-kind contributions by the USFS for design, oversight, plans, and contract administration activities; and \$33,000 for contingency. The *Final Work Plan* will be updated to reflect these changes in matching funds identified in the *Draft Work Plan*.

Since some, but not all of these past investments indicated by commentators were indicated in the *Draft Work Plan*, the NRDP requested an update of all past contributions by the B-SB and the USFS to improvements in and maintenance of Thompson Park facilities. That list is provided in Attachment 1 and will be provided in the *Final Work Plan*. As shown in that attachment, B-SB has typically invested \$12,000 per year in annual maintenance of Thompson Park and adjoining roads. More than 80% of that maintenance was for the annual grading of the Eagles Nest, Lions Den and Archery Range roads in the Park and the grading, plowing, and sanding of Roosevelt Drive. B-SB also lists an additional \$22,947 as a past contribution the chip sealing project on Roosevelt Drive in 2002.<sup>2</sup> The USFS has invested \$42,000 in maintenance and improvements in the past several years and \$67,000 in special projects in 2003 to improve

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<sup>2</sup> It should be noted that while Roosevelt Dr. goes through Thompson Park, it is a county road that continues through to a local subdivision and beyond.

the Thompson Park area. (See Attachment 1.) While these past contributions do not get factored into the matching funds calculation described above, they answer the questions of some reviewers and commentators about past contributions by the managing entities to improving the natural resources and recreational features of Thompson Park. (See related discussion under Category #5 (pp. 6-10).)

**CATEGORY 2: Support for the Butte Waterline Project.** The NRDP received 16 comments with 3 comments from 3 entities supporting the Butte Waterline project. Most commentators did not provide specific reasons for supporting the project. (See letters 8D, 13C, 16B, 17C, 18C, 19B, 21D, 22B, 23B, 24C, 25A, 27C and hearing comments PH-2B, PH-9B, PH-10C, PH-15B.) The few specific reasons indicated for support include:

- This project assists Butte with upgrades of its water system as a replacement for groundwater resources that cannot be restored.
- The infrastructure work planned for Butte’s water systems fits well into the original idea for use of restoration funds.

**RESPONSE:** These commentators’ support of the Butte Waterline project will be noted in the *Final Work Plan* under the NRDP’s analysis of the “Public Support” criterion of these projects in Appendix B. With the documentation of public support from these commentators, the public support for the Butte Waterline project will be characterized as “Moderate” instead of “Limited.”

**CATEGORY 3: Support for the Upper Willow Creek Project.** The NRDP received 14 comments from 12 individuals and 2 entities supporting this project. (See letters 8B, 12A, 13A, 16A, 17B, 18, 19D, 20B, 21B, 22A, 23A, 24B, 26B and hearing comments PH-10B.) Reasons for support included:

- The Upper Willow Creek project appears reasonable based on its benefits to Rock Creek tributaries and the related fishery.
- Public access is adequate and matching funds are high.
- This project is the best one as it deals most directly with wildlife and riparian restoration; it should be fully funded.
- The project is worth funding due to the large potential fisheries benefits, its importance as spawning habitat for native species, the scale of the project, the cooperation of the landowner, the detailed and careful design of the project, and the high proportion of matching funds.
- This project has a high potential to benefit the Clark Fork fishery.
- Restoring several badly degraded miles of Upper Willow Creek will help to rehabilitate critical native trout habitat.

**RESPONSE:** These commentators’ support of the Upper Willow Creek project will be noted in the *Final Work Plan* under the NRDP’s analysis of the “Public Support” criterion of

these projects in Appendix B. With the documentation of public support from these commentators, the public support for the this project will be characterized as “Broad” instead of “Moderate.”

**CATEGORY 4: Support for the Basin Dam Project.** The NRDP received 15 comments from 13 individuals and 2 entities that support this project. (See letters 8D, 13C, 16B, 17C, 18C, 19B, 21C, 22B, 23C, 24C, 25B, 27C and hearing comments PH-2A, PH-9C, PH-15A.) Most commentators did not provide specific reasons for supporting the project. The few specific reasons provided include:

- Butte water system upgrades are a means of replacement for groundwater resources that cannot be restored.
- These upgrades will be a significant step in restoring clean water to Butte.
- This is an area where infrastructure is a legitimate use of NRD funds.

**RESPONSE:** These commentators’ support of the Basin Dams project will be noted in the *Final Work Plan* under the NRDP’s analysis of the “Public Support” criterion of this project in Appendix B. With the documentation of public support from these commentators, the public support for the Basin Dam project will be characterized as “Broad” instead of “Limited.”

**CATEGORY 5: Opposition to the Thompson Park Project.** The NRDP received 11 comments from 10 individuals and one entity opposing the Thompson Park project. (See letters 8E, 12C, 13D, 16D, 17D, 18E, 19E, 21F, 22D, 23E, 24E.)

**COMMENT:** Most of the comment letters from the 10 individuals were brief and generally indicated their opposition to the Thompson Park project because of their belief that the USFS should fund the improvements on federal lands, that the city of Butte needs to show more willingness to pay for park maintenance, and/or that the proposal lacks a clear feasible plan for long-term maintenance.

**COMMENT:** Matt Clifford of the Clark Fork Coalition (CFC) outlines reasons for not funding Thompson Park, which include similar concerns as those above. The CFC believes that it is not wise to invest state money on the park infrastructure without some definite provision in place that will provide long-term maintenance funds from traditional sources such as local taxes, user fees, or some similar source revenue. The CFC is also concerned about the precedent of funding a project, which they consider as one that corrects management problems that fall within the federal government’s responsibility. They offer an analogy of the City of Missoula discontinuing maintenance of their sewer lines and subsequently seeking NRD monies to fix them since fixing the line would benefit the water quality of the Clark Fork River. The CFC concludes that “no one would seriously argue that the city’s inability or unwillingness to find the money to fulfill its responsibilities somehow meant that those responsibilities were no longer a government function.”

**RESPONSE:** These commentators’ opposition to the Thompson Park project will be noted in the *Final Work Plan* under the NRDP’s analysis of the “Public Support” criterion of this project in Appendix B. Given that the large majority of the public comments received on this project are in support of this project (see Category 1), the NRDP’s summary characterization of

the public support for this project in the *Final Work Plan* will note that there is broad support primarily from the Butte area (59 letters/comments and 96 signatories on petition total) but also moderate opposition from others (12 letters total).

In responding to these criticisms to funding the Thompson Park proposal, the NRDP focused on the revised Thompson Park proposal as recommended by the NRDP in the *Pre-Draft Work Plan*. The NRDP recommended funding of \$525,000 of the \$1.28 million requested for two project components--the rehabilitation of access components for \$315,000 (60%) and recreation sites for \$210,000 (40%) within Thompson Park. The Trustee Restoration Council did not approve the NRDP's partial funding recommendation, thus the project was not recommended for funding in the *Draft Work Plan*. Council members expressed concerns about the lack of past funding commitment to the Park, about uncertainties tied to the lack of updated management and maintenance agreements, about uncertainties associated with the funding of needed maintenance/replacement in the long-term, and about setting a precedent of funding park maintenance activities. The majority of Advisory Council members that did not support project funding also had similar general concerns about funding park maintenance activities. The majority of the public comments in opposition to the park also centered on these concerns. Additional voiced concerns by Advisory Council members were about whether the USFS should be maintaining the area and about whether NRD funds should only be used for direct mining impacts, particularly in light of unresolved litigation and lack of a comprehensive basin-wide restoration plan. This latter objection is addressed in responses under Categories #12 and #15, respectively.

After having considered all public input favoring or disfavoring the Thompson Park project, the NRDP offered the following reasons in support of its pre-draft partial funding recommendation for consideration by the Trustee Restoration Council.

- The project will substantially benefit the natural resources and the public's use and enjoyment of natural resources. It will improve water quality of Blacktail Creek and provide natural resource based recreational opportunities to a large group of recreational users given its setting, proposed features, and close proximity to Butte.
- The proposal does not involve funding for routine maintenance activities.
- The project augments, but does not replace, normal government function.
- Improvements to existing recreational facilities are legitimate expenditures of the NRD funds contemplated by the *RPPC*.
- The project does not set a precedent for funding improvements to federally-owned and operated recreational facilities.
- A funding condition addresses the need for an updated management agreement and maintenance plan.<sup>3</sup>

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<sup>3</sup> On November 12, 2003, B-SB provided the NRDP with copies of a draft *Memorandum of Understanding* for management of Thompson Park and a draft *Annual Financial and Operation Plan* for calendar year 2004.

- The project partners will provide 42% in matching funds.

The Trustee Restoration Council considered this NRDP input, Advisory Council input, and additional public comment at its November 21, 2003 meeting. The Council decided to adopt, as its own recommendation, the Advisory Council's final recommendations to the Governor on all the projects, including the Advisory Council's recommendation to not fund the Thompson Park project. Some of the Trustee Restoration Council's concerns noted above still remained despite the applicant having produced an updated a draft management agreement and annual operations plan in November. In addition, the Trustee Restoration Council recognized and gave weight to the extensive Advisory Council deliberations on the pros and cons of funding this project and that Council's final decision to recommend no funding of this project. Similarly, after considering the input both favoring and disfavoring the project, the Governor concurred with the final recommendations of the Trustee Restoration Council and Advisory Council not to fund it.

**CATEGORY 6: Support of the East Valley Project:** The NRDP received 12 comments in support of this project. (See letters 8C, 13B, 16C, 18D, 19C, 20C, 21E, 22C, 23D, 24D, 25C, 26C.) Some of the reasons offered in support of this project include:

- This project collaborates with agricultural interests to presumably achieve measurable benefits to fish habitat.
- By reducing the impacts to the riparian areas of the Clark Fork tributaries, stress on the fishery will be reduced and recovery will be accelerated. Success will depend on a long-term monitoring effort to assure that changes made are maintained effectively.
- The agriculture-sponsored East Valley project will improve grazing practices, which will in turn reduce negative impacts to the Clark Fork tributary streams and improve vegetation.
- Although the benefits to publicly available fish and wildlife are not tremendous, they are sufficient to justify the project cost. With such a large portion of the Basin's damaged habitat in private agricultural ownership, the long-term success of restoration will depend to a large degree on designing projects that mutually benefit both fish and wildlife and agricultural producers. This project will foster cooperation with agricultural interests.

**RESPONSE:** These commentators' support of the East Valley project will be noted in the *Final Work Plan* under the NRDP's analysis of the "Public Support" criterion of these projects in Appendix B. With the documentation of public support from these commentators, the public support for the East Valley project will be characterized as "Moderate" instead of "Limited." The NRDP agrees that a long-term monitoring program should be established to ensure changes are being maintained, as stated in the *Draft Work Plan*: "Monitoring of the project is an integral component as monitoring results can indicate the need to change management strategies." This long-term monitoring program is part of the proposal recommended for funding.

**CATEGORY 7: General Support for the Work Plan.** The NRDP received 3 comments noting general support of the *Draft Work Plan*. (See letters 12B, 17A, 19A.)

**RESPONSE:** These commentators' support of the five projects recommended for funding in the *Draft Work Plan* will be noted in the *Final Work Plan* under the NRDP's analysis of the "Public Support" criterion of each of the projects in Appendix B.

**CATEGORY 8: Comparison of projects on private lands to Thompson Park project.** The State received 3 comments from 3 individuals in support of the Thompson Park project that compared the merits of funding projects on private agricultural lands to the merits of funding the Thompson Park proposal. (See hearing comments PH-5B, PH-15D, PH16B.)

**COMMENT:** Matt Vincent questions the consistency between recommending the Upper Willow Creek and East Valley projects for funding but not the Thompson Park project. He believes that if the Thompson Park project is not funded, then these other two projects should also not be funded and offers the following comparisons to support this recommendation. He also believes the USFS and B-SB will likely obtain the lacking data to all the recreational and natural resource habitat improvements proposed. (See hearing comment PH-5B.)

- One reason given for not funding Thompson Park project is the lack of past maintenance by governmental entities. The USFS's and B-SB's recent efforts to update their management and maintenance plans for this park will address these concerns. Consider, too, that the degraded resource conditions at Upper Willow Creek and East Valley projects were caused by lack of management or poor management practices and we are proposing to fix problems attributable to those past practices.
- The Upper Willow Creek and East Valley projects offer limited public access whereas the Thompson Park project offers full public access, now and forever.
- The East Valley and Upper Willow Creek projects involve improvements to tributaries of the Clark Fork River, but the remedy decision is not completed and the litigation is unresolved for that site.
- Upper Willow Creek below the proposed project area has a thriving cutthroat trout fishery and supports bull trout. The aquatic improvements to be gained from this project would not be any better than those from the Thompson Park project.

**COMMENT:** Evan Barrett comments in support of the Thompson Park proposal on behalf of the Butte Local Development Corporation and the Butte Economic Development Coordinating Council as well as an individual on behalf of his family. He notes similar concerns to those of Matt Vincent regarding inconsistencies in the decisions to recommend the East Valley and the Upper Willow Creek projects but not the Thompson Park project. He contrasts the limited public access for the two projects on private land compared to the complete public access and ownership at Thompson Park. Replacement projects should offer maximum public participation. (See hearing comment PH15-D.)

**COMMENT:** Joe Griffin believes that the Thompson Park project will derive a greater public benefit than the Upper Willow or East Valley projects. The Thompson Park area already derives great public benefit and can offer more public benefits with needed improvements. The

other projects on private lands involve repairing damage caused by the landowners themselves. He sees great hiking potential associated with the Thompson park project whereas most of the other projects seem to focus on fishing.

**RESPONSE:** This response focuses on the comments related to the project comparisons made. These commentators' support of the Thompson Park project is addressed separately under Category #1.

While access to the Upper Willow Creek and East Valley project area could generally be characterized as limited, the NRDP considers the access provisions for these two projects to be reasonable. As identified under the "Public Access" criterion in the *Draft Work Plan*, existing access to the Upper Willow Creek site is considered adequate given the location of public bridges on the upstream and downstream ends of the project area, the landowner's participation in FWP's Block Management Program, and the landowner's willingness to allow fishing access on a permission basis. Over 60% of the private lands (or 20,000 acres) in the East Valley project area are open to public access by landowner permission or through FWP's Block Management Program.

The commentators' point that the projects on private lands do not offer as substantial public access and associated recreational benefits as the Thompson Park project is valid. This point is adequately covered in the comparison of these projects for the "Public Access" criterion in Section 4.0 and in the comparison of all projects contained in Section 5.0 of the *Draft Work Plan*. Both these sections recognize the greater access and recreational benefits to a larger public for the Thompson Park project compared to the other projects. Access and recreational benefits are not, however, the only benefits evaluated in determining which projects merit funding and how projects are ranked based on a comparison to one another for all the *RPPC* criteria. Those criteria consider benefits to injured natural resources or replacement resources as well as the benefits to public's use and enjoyment of these injured or replacement resources. Projects on private lands that will substantially improve fishery and/or wildlife resources and have a favorable benefit:cost relationship are likely to merit funding regardless of whether they provide for additional public access beyond that which is already available. For example, even without the reasonable access provisions of the Upper Willow Creek project, the relationship of benefits to costs is still considered favorable given the substantial benefits to replacement natural resources that will be derived from the project and its high percentage of 67% in matching funds. When the resource benefits are not substantial, then the access benefits can be more influential in the funding. For example, had there been greater access benefits for the East Valley project, then the NRDP would have characterized the benefit:cost relationship as one of net benefits rather than commensurate benefits.

The commentators make the point that if the Thompson Park proposal is not funded due to a perceived lack of maintenance or poor management by owners, then the Upper Willow Creek and East Valley projects should also not be funded as they correct problems that could also be attributed to the lack of or poor management by the entities that owned the lands. One could argue that generally some or all problems associated with all six of this year's replacement project proposals and others approved in past grant cycles stem from the inadequate maintenance or lack of upgrades to the lands and facilities that are subject of the proposal by either past or current owners. Take, for example, the three projects involving upgrades to the Butte and Anaconda drinking water supply infrastructure. The severity of the leaks in Butte's and Anaconda's transmission lines and the dilapidated conditions of the Basin Creek dams were due

to inadequate maintenance by the previous owners of the systems, the Anaconda Company, ARCO, and Washington Corporation. Restoration of the injured Butte bedrock aquifer and the injured portion of the Anaconda Area groundwater resource is technically impracticable. In considering what projects might be appropriate compensatory restoration for the injuries to these groundwater resources and associated lost services, improvements to existing infrastructure that delivers uncontaminated supplies to the Butte and Anaconda communities can offer the most cost-effective choice. In evaluating the merits of funding a project, the most important assessment is whether the benefits to natural resources and the public use and enjoyment of those resources to be derived from the project outweigh the project's costs. Part of evaluating those merits involves insuring that the proper safeguards exist to ensure the long-term maintenance of these improvements. Acceptable measures were proposed for the Upper Willow Creek and East Valley proposals and the production of acceptable measures was a funding condition for the Thompson Park proposal. Finally, in addressing this point, it should be noted that the commentator only listed one of a number of concerns offered by Advisory and Trustee Restoration Council members concerning the Thompson Park proposal.

Regarding the comparison of the fishery benefits to be derived from the Upper Willow Creek project compared to the Thompson Park project, the condition of existing aquatic and riparian resources and the causes of degraded conditions was the subject of a detailed investigation conducted for Upper Willow Creek but not Blacktail Creek. The greater supporting information for Upper Willow Creek was one reason that contributed to the NRDP ranking the Upper Willow Creek project higher than the Thompson Park proposal.

In conclusion, the NRDP disagrees with the reasons offered that if Thompson Park is not funded, then the Upper Willow Creek and East Valley projects should not be funded. These comparisons are neither valid nor complete.

The comment that the USFS and B-SB are likely to provide the data to justify all the project components is related to the NRDP's pre-draft funding recommendation of funding of the recreational site and access components of the project for \$525,000 but not the \$757,530 for the trail and natural resource improvements. Insufficient data was provided in the application for these latter improvements. Additional data can be provided in future applications if the applicants wish to pursue funding of these project aspects.

**CATEGORY 9: Preference for natural resource related projects.** The State received 5 comments generally stating a preference for funding only natural resource related projects. (See letters 8A, 18A, 19F, 21A, 24A, 26A.) The commentators' specific comments in support of or in opposition to particular projects are addressed in the responses to project-specific comments.

**COMMENT:** Catharine Carey, Tom and Nancy Graves, and David Mildrexler prefer that settlement monies go to actual on-the-ground restoration of natural resources. (See letters 18A, 24A, 26A.)

**COMMENT:** Arthur Gidel encourages approval of only those projects that will have a positive and substantial direct benefit to the damaged watershed and related groundwater. He discourages funding of economic development or park infrastructure projects. (See letter 8A.)

**COMMENT:** Catherine Everingham states that settlement monies should go to actual on-the-ground restoration of natural resources damaged by mining in the Upper Basin. (See letter 21A.)

**RESPONSE:** These commentators generally advocate funding of the natural resource restoration but not service projects. Their general comments relate to the *RPPC* more than the *Draft Work Plan*; therefore, no changes in the *Draft Work Plan* are necessary. Nevertheless, the NRDP offers the following observations on these comments.

Montana v. ARCO covered both natural resource injuries and lost services via a restoration damage claim and a compensable damage claim. “Restoration Cost Damages” are the costs necessary following remediation to restore the injured natural resources and/or the services it provides to their baseline condition. “Services” are the biological and physical functions a resource provides for the public or another resource. “Compensable Value Damages” are the costs to compensate the public for the lost use of the natural resources and their intrinsic value. These are measured by estimating the value of the benefits the resources would have supplied if the resources had not been injured. Examples include the value of lost drinking water use due to groundwater contamination or the value of lost recreational uses caused by mining contamination. The compensable value damages amounted to more than 50% of Montana’s natural resource damage claim.

As set forth in the *RPPC*, all projects that will restore, rehabilitate, replace, or acquire the equivalent of injured natural resources **and/or** the services lost as a result of releases of hazardous substances by ARCO or its predecessors that were the subject of the Montana v. ARCO lawsuit are eligible for funding consideration. This eligibility is based on the natural resource damage provisions in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA). The NRDP believes that excluding service projects from eligibility would eliminate worthwhile projects for funding consideration. For example, the public water supply improvement projects, for which some of these commentators indicated their support, would be ineligible for funding. They are service projects that do not constitute “on-the-ground” restoration of natural resources. The NRDP believes that they are appropriate “compensatory restoration”— they compensate the public for some of the lost uses of groundwater in areas where restoration of injured groundwater resources is infeasible. Similarly, projects that provide for enhancing natural resource based recreational opportunities compensate the public for lost recreational services that were covered under Montana v. ARCO.

**CATEGORY 10: Fund only fish, wildlife, and related recreation projects.** The State received 2 comments generally stating a preference for funding only natural resource related projects. (See letters 19F and 20A.) These commentators’ additional comments specific to particular projects are addressed in the responses that are specific to those projects.

**COMMENT:** Representative Gail Gutsche encourages a stronger emphasis in future years on projects that benefit fish, wildlife and related recreational opportunities and specifically pursuing proposals from FWP. (See letter 19F.)

**COMMENT:** Representative Paul Clark suggests that funding should focus on natural resource restoration, with the projects that involve fish and wildlife habitat restoration and river health receiving primary consideration. (See letter 20A.)

**RESPONSE:** These general comments relate to the *RPPC* more than the *Draft Work Plan*; therefore, no changes in the *Draft Work Plan* are necessary. Nevertheless, the NRDP offers the following observations on these comments.

All the 27 projects that have been approved in the past three grant cycles and those being considered for funding in this year's grant cycle are ones that will either improve fish and wildlife habitat and populations, improve public water supplies, or improve natural resource based public recreational opportunities in the UCFRB. This eligibility stems from what the natural resource damages provisions of CERCLA specify as eligible expenditures of natural resource damages, which is also reflected in the legal threshold criterion for funding set forth in the *RPPC*. These commentators appear to support all these purposes except for improvements to public water supplies. The public water supply improvements are, however, eligible for and worthy of funding as replacement projects that offer compensatory restoration for the substantial injuries to groundwater resources that occurred due to hazardous substance contamination from ARCO and its predecessors mining and smelting activities. Montana v. ARCO sought restoration damages for injuries to aquatic, terrestrial, and groundwater resources and compensable damages for the public's lost use and enjoyment of these resources. Groundwater injuries were a substantial part of Montana v. ARCO – about 1/3 of the damage claim. Thus projects related to groundwater resources and services, such as those that improve the public water supplies of affected communities, are appropriate for expenditure of damage settlement monies.

Restoration damage funds can be spent and have been spent on recreational opportunities that are tied to fish and wildlife, such as fishing and hunting opportunities. But other natural resource recreational service projects besides fishing and hunting opportunities can also be funded. The four recreational areas that had associated lost recreational services addressed by Montana v. ARCO include the injured aquatic and riparian terrestrial resources of Silver Bow Creek and the Clark Fork River, the injured riparian terrestrial resources of the Opportunity Ponds, and the injured upland terrestrial resources of the Anaconda Uplands. The compensable damages for lost use of natural resources covered in Montana v. ARCO included the loss of fishing and hunting recreational services as well as non-fishing and non-hunting recreational services such as picnicking, hiking, walking, bird-watching, water-play, and open space enjoyment in these injured riparian and upland areas. The key to eligibility of recreational projects is that the services that are created, improved, or acquired are the same or substantially similar to these lost recreational services covered under Montana v. ARCO.

**CATEGORY 11: Forest Service Management.** The NRDP received 2 comments from Alice Lester that are critical of the USFS management of a “beetle problem.” (See letters 6 and 11.)

**RESPONSE:** Although it is not stated, these comments probably relate to the pine beetle infestation at Thompson Park. The NRDP believes these issues about forest management are not relevant to the Thompson Park funding request; therefore, no change in the *Draft Work Plan* will be made to address them.

**CATEGORY 12: Fund Mining Related Projects.** Mr. William Maxson expresses his concern that the monies will be spent on projects that have nothing to do with damages done to natural resources in the Butte and Anaconda areas, which he considers the purpose of the lawsuit. (See letter 27A.)

**RESPONSE:** This comment relates more to the provisions of the *RPPC* and the requirements of CERCLA that provide the overall framework on Restoration Fund expenditures than to the *Draft Work Plan*; therefore, no changes in the *Draft Work Plan* are necessary.

According to CERCLA, natural resource damages that the State acquired via the 1999 partial settlement of its NRD litigation against the Atlantic Richfield Company (ARCO) may be used to restore or replace injured natural resources and/or the services lost as a result of releases of hazardous substances by ARCO or its predecessors that were the subject of Montana v. ARCO. Restoration refers to actions taken to return the injured resources and services to their baseline condition. Replacement actions create or improve resources and services that are the same as or very similar to the ones that have been injured or lost. Replacement projects do not have to address mining impacts to be eligible for funding. In addition, a project that simply addresses the impacts of mining, for example, subsidence, would not be eligible for NRD funding unless the project also substantially addresses the adverse impacts of hazardous substance contamination on natural resources.

Several of the *RPPC* criteria offer preferences for actual restoration of injured resources. Thus, projects within the UCFRB but outside of injured areas impacted by mining may not receive a rank as high as projects in these injured areas, but they are still eligible for funding if they directly benefit or replace injured resources or lost services.

None of the 2003 grant proposals involve actual restoration of injured resources. All of them are replacement projects—they will create or enhance natural resources or services that are equivalent to the injured natural resources or lost services covered under Montana v. ARCO. The NRDP also notes that, to date, the majority of restoration funds approved for expenditure (96%) have been for projects in the Butte and Anaconda areas.

**CATEGORY 13: Opposition to Upper Willow Creek.** Mr. William Maxson opposes funding of the Upper Willow Creek project and questions what it has to do with natural resource damage for mining impacts. (See letter 27E.)

**RESPONSE:** This commentator’s opposition of the Upper Willow Creek project will be noted in the *Final Work Plan*. Since the majority of the comments received supported this project, however, the public support will be characterized as “Broad” in the *Final Work Plan*, as explained under Category #3.

Montana v. ARCO sought restoration damages for injuries to aquatic, terrestrial, and groundwater resources and compensable damages for the public’s lost use and enjoyment of these resources. Projects that restore or replace these injured natural resources or lost services are eligible for funding. As explained in the previous response categories, projects do not have to address natural resources injured by mining to be eligible for funding. Eligible replacement projects are those that will create or improve resources and services that are the same as or very similar to the ones that have been injured or lost as a result of the release of hazardous substances. The Upper Willow Creek project will substantially improve fish and wildlife habitat and associated recreational services that are similar to those that have been injured or lost. Montana brought its NRD lawsuit to obtain compensation for injuries to the Clark Fork Basin’s fish and wildlife habitat and for the associated public water supplies and recreational opportunities. This project fits well with the mission of the NRD lawsuit.

**CATEGORY 14: Opposition to East Valley Project.** Mr. William Maxson opposes funding of the Upper Willow Creek project and questions what it has to do with natural resource damage for mining impacts. (See letter 27B.)

**RESPONSE:** This commentator’s opposition to the East Valley project will be noted in the *Final Work Plan*. Since the majority of the comments received supported this project, however, the public support will be characterized as “Moderate” in the *Final Work Plan*, as explained under Category #6. This project is eligible for funding and meets the mission of NRD funding for the same reasons as provided in the previous response.

**CATEGORY 15: Comprehensive Planning:** The NRDP received comments from Dr. John Ray that centered on the need for comprehensive, basin-wide visioning planning effort. (See letter 3.)

**RESPONSE:** All of Dr. Ray’s comments are more relevant to the *RPPC* and the pending Silver Bow Creek Watershed Restoration Plan than the *Draft Work Plan*; therefore, they do not require a change in the *Draft Work Plan*. Nevertheless, the NRDP offers the following observations on these comments. Since Dr. Ray’s comments cover a number of issues, the comments and responses have been organized into the three categories: 1) Basin-wide comprehensive planning; 2) coordination with Superfund Redevelopment Initiative and comprehensive land use planning in Butte; and 3) the Silver Bow Creek planning effort.

### **1) Basin-wide comprehensive planning**

**COMMENT:** Dr. Ray advocates a comprehensive, systematic approach to restoration of injured resources in the UCFRB that would require a vision of what we want the Basin to look like after remediation and restoration are completed. Using that vision, goals and objectives for restoration should be developed. Next, programs and activities to achieve restoration can be developed and funded. The current process is more of a piecemeal approach to projects without any clear overview of how those projects fit into the vision we have of the watershed. This piecemeal approach is a disservice to taxpayers and the mission of the NRDP to restore damage resources. There is a lack of vision, goals, and objectives for NRDP activities. Without the “big picture,” we cannot evaluate whether projects will accomplish their purpose and monies are well-spent.

Dr. Ray believes the NRDP does not have a clearly articulated vision statement for restoration of the UCFRB. A clear vision statement would describe what we want the Basin to look like in ideal terms in the future. It would allow working backward from the future conditions we would like to see in the Basin to the present damaged resources in order to design a course of action that will get us from here to there. The picture of the future of the Basin could then be used as a guide to projects. He identifies the components of a clear vision statement, lists numerous benefits to having a clear vision statement, and suggests several questions we should ask in developing a vision statement.

**RESPONSE:** These comments are similar to those received on the *RPPC* and the three previous annual work plans that recommended the State develop a comprehensive plan setting forth broad basin-wide watershed scale restoration needs and goals. The State understands the desire for a comprehensive document setting forth watershed scale restoration needs and goals and agrees with some of the predicted merits of developing such a document. A basin-wide

planning effort, however, cannot and should not be initiated until completion of remedy decisions and resolution of remaining natural resource damage litigation.

Several significant Records of Decision, including those for the Clark Fork River and the Butte Priority Soils Operable Units, have not been issued, and the State's NRD claims involving the Clark Fork River, Butte Area One and the Smelter Hill Area Uplands sites, referred to as the "Step 2" sites, have not been resolved. Without knowing the full extent of remediation to be required by EPA in the UCFRB, how much the State will receive in restoration damages, and whether the State's restoration plans for these sites will be accepted by the court, the NRDP believes that it would be premature, and an inefficient use of Restoration funds, to develop a comprehensive basin-wide restoration plan. Moreover, the completion of such a plan could actually conflict with remediation planning and the State's ability to recover further damages in the State's lawsuit. Another reason for not conducting planning at Step 2 sites beyond the restoration planning for litigation purposes is that a possibility exists that the litigation may result in a specific amount of damages being earmarked for a Step 2 site.

In the meantime, the State believes that it is important to proceed with restoration projects that the people of the Basin and others believe are appropriate to fund at this time. Dr. Ray appears to suggest that no restoration projects should be funded until a basin-wide comprehensive plan is completed. This sentiment is not shared by the other comments in the past that have promoted a comprehensive planning effort; instead there has been a pitch to be conservative in spending only the interest until remedy decisions are completed and litigation is resolved. That public sentiment is reflected in the current Trustee's conservative funding policy.

Another reason not to wait until a comprehensive basin-wide planning effort is completed to expend Restoration funds is that such deferral would jeopardize or even eliminate the ability to coordinate between on-going remedial actions and restoration actions. This efficient coordination is now occurring on Silver Bow Creek and has achieved significant cost-savings through the blending of remedial and restoration designs.

The State does not share Dr. Ray's concerns that the lack of a comprehensive plan makes it impossible to gauge how proposed projects collectively or individually meet restoration objectives. As recognized by Dr. Ray, the basic underlying goal of the restoration process is set forth in the *RPPC*. That goal is to restore the natural resources which were injured and services which were lost or impaired as a result of the releases of hazardous substances from ARCO's and its predecessors' mining and mineral processing operations. In addition to the *RPPC*, a substantial framework guiding restoration in the Basin exists in the other documents related to the NRD assessment and the restoration program, such as the injury assessment reports, the State's 1995 Restoration Determination Plan, as well as the natural resource damage provisions under CERCLA. In a sense, one of the principal goals for the restoration program are the baseline conditions that were established as part of the State's injury assessment. For example, the baseline conditions that were established for the Clark Fork River included the number of trout that would be expected in the river absent the effects of hazardous substances.

Furthermore, the underlying assumption that a comprehensive, basin-wide restoration plan, once it is developed, would result in funding better restoration projects has not been established. In fact, one of the purposes of the Silver Bow Creek planning effort is to help determine the value of comprehensive restoration planning. The NRDP believes the existing framework offers some advantages. By funding projects on a yearly basis without a guiding

“comprehensive plan,” the State has the opportunity to experiment with its restoration process and to develop different, innovative approaches without being tied to a specific plan, developed at a specific point in time, by a specific group of people. In a sense, the State’s restoration process has been “democratized,” allowing a diversity of entities to submit an evolving variety of projects that might not otherwise be contemplated or proposed. The existing framework also avoids the inevitable conflict between communities and different interest groups that would occur in developing a comprehensive plan.

Montana brought its NRD lawsuit to obtain compensation for injuries to the UCFRB’s fish and wildlife habitat and for losses of public water supplies and recreational opportunities. The projects that have been funded from Montana’s NRD recovery have restored, replaced or enhanced the natural resources and their services that were the subject of the lawsuit. Specifically, approved projects will:

- Restore aquatic and riparian habitat along 40 stream miles in the Basin.
- Replace injured fish and wildlife habitat and lost fishing, hunting and other recreational opportunities by the acquisition of or conservation easements over about 15,000 acres of land in the Basin.
- Rehabilitate about seven miles of public water supply lines in the most affected communities, Butte and Anaconda.
- Create about seven miles of trails along a restored Silver Bow Creek.

These efforts demonstrate that funded projects will accomplish the purposes set forth in CERCLA, the *RPPC*, and associated program guidance for the expenditure of natural resource damages.

## **2) Coordination with Superfund Redevelopment Initiative and comprehensive land use planning in Butte**

**COMMENT:** Dr. Ray advocates explicit coordination of NRDP activities with remediation activities developed under the Superfund Redevelopment Initiative. He provides background information on this Initiative, which facilitates the return of contaminated sites to productive use by selecting cleanup remedies that are consistent with the anticipated further use of the sites. He believes the goals and objectives of that Initiative are very close to those of the NRDP. He believes that the Butte area greatly needs a systematic, coordinated comprehensive approach to remediation and restoration and is critical of the NRDP’s lack of coordination with this Initiative in the Butte area. The local government, EPA, and NRDP should be cooperating regarding future land uses in the Butte area. Dr. Ray suggests that if the NRDP is precluded from such comprehensive land use planning, such efforts should be completed as part of the remedy decision process.

**RESPONSE:** One of the three Step 2 sites that is still the subject of NRD litigation is the Butte Area One Ground and Surface Water Resources site (Butte Area One). This site extends from the upper end of the Metro Storm Drain to the downstream end of the former location of the Colorado tailings along Silver Bow Creek. The Butte Area One site is a small part of EPA’s Butte Priority Soils Operable Unit (BPSOU). The NRD injury assessment for Butte Area One

determined that the areal extent of the alluvial groundwater injury is about 560 acres. The injury to the surface water of Silver Bow Creek, another aspect of the NRD claim, is associated with contaminated groundwater and surface water, including untreated stormwater, entering the stream throughout Area One.

NRD restoration planning for litigation purposes involves: 1) determining what additional measures are needed following remediation to restore the injured natural resource to its “baseline” or uncontaminated condition; and 2) estimating the cost of these additional measures. These costs are the restoration damages that the State sought in *Montana v. ARCO* based on the restoration plans that were published in an October 1995 document entitled, *State of Montana Restoration Determination Plan for the Upper Clark River Basin (RDP)*. The NRDP will revise the 1995 RDP and its claim for Butte Area One in conjunction with the completion of the BPSOU Record of Decision, which is currently scheduled to occur in 2004. The premise behind this framework for Step 2 sites that is set forth in the 1999 Consent Decree is that the State needs to have a good idea of what will be accomplished under remediation in order to update its NRD restoration plans for these sites. This sequence eliminates the risk of planning actions or spending restoration dollars on measures that will be taken as part of remediation. The State does not have to wait until the ROD is issued to update its Butte Area One restoration plan; however, it would be premature to update this plan before EPA has indicated what its proposed remedial action at the site will be. Presently, the EPA process has not reached the proposed plan stage, as there is still no final feasibility study for the BPSOU.

The NRDP does coordinate with EPA during the remedial investigation/feasibility study and remedy determination processes, although its role in these phases is limited. Program staff review the draft documents and attend critical meetings to keep informed about potential remedial actions and assess whether there are any potential conflicts with our litigation claim for the Butte Area One. As part of our review process, we notify the DEQ, which is the lead State agency for the remediation process, of any items of concern and provide comments to EPA.

A significant distinction exists between NRD restoration planning and comprehensive land use planning that Dr. Ray encourages the NRDP engage in and coordinate with other entities in Butte. The NRD restoration planning for litigation purposes is more limited in scope than comprehensive land use planning. Comprehensive land use planning involves consideration of all potential end land uses and developments which go far beyond the natural resource baseline conditions that are considered in restoration planning. Furthermore, the land area involved in comprehensive land use planning normally involves larger urban areas devoted to multiple land uses rather than areas primarily devoted to natural resources. For example, the preferred alternative for Butte Area One in the State’s 1995 RDP involved removing primary waste sources in Butte Area One to reduce releases of hazardous substances to groundwater and surface water. The restoration plan is not a comprehensive land use plan for an urban area.

The NRDP disagrees with Dr. Ray’s assertion that the goals and objectives of the Superfund Restoration Initiative are similar to those of the NRDP. The Superfund Redevelopment Initiative was developed to assist in the determination of final remedial actions. Dr. Ray’s desire to have comprehensive land use planning conducted as part of that Initiative under the remedy decision process is an issue for consideration by EPA, as EPA is the agency directing the remediation process in Butte and responsible for implementation of the Initiative.

### **3) Silver Bow Creek watershed planning effort**

**COMMENT:** Dr. Ray offers criticisms and suggestions related to the on-going restoration planning process for the Silver Bow Creek watershed. He criticizes the methodology used to solicit input from focus groups and that effort considers only one part of the Basin rather than the entire Basin. He suggests that the focus groups be used to develop a vision statement for the Basin and that if basin-wide planning is impossible, then the NRDP should engage in strategic planning for Butte. He states this planning effort needs to be reenergized and cover areas of Butte that have been settled. In supplemental input, he seems to suggest that all the components of this strategic planning process should be completed before the State entertains more funding proposals.

**RESPONSE:** The previous responses offer reasons why the State has not initiated a comprehensive basin-wide planning effort at this time. Based on public input suggesting a “comprehensive watershed approach” for restoration projects, the NRDP, with approval from the Advisory Council and the Trustee Restoration Council, initiated a pilot planning effort focusing on the Silver Bow Creek watershed drainage in early 2002. Under this effort, a general watershed characterization will be provided that identifies the existing conditions within the watershed and the desired future conditions of the aquatic and terrestrial resources and associated recreational services. A vision statement, goals, objectives, and priorities for restoration in the watershed will also be developed. This planning effort does cover those areas in or near Butte that are not the subject of pending remedy decision (Butte Priority Soils Operable Unit) or unresolved litigation (Butte Area One). The process has involved extensive public participation.

This planning effort is now nearing completion. The NRDP plans to release a draft plan for public comment in January 2004. The plan will be finalized before the next grant cycle and will be used to help evaluate future proposals for projects within the Silver Bow Creek watershed. The public comment period on that plan is the appropriate time to receive and respond to any specific comments Dr. Ray or others have on this planning effort. Also, the Trustee Restoration Council will be addressing the general issue of comprehensive planning and guiding principles at its next meeting in 2004 when it considers the draft Silver Bow Creek Watershed Restoration Plan.

## Attachment 1

### Thompson Park and Blacktail Rehabilitation and Restoration Project Past and Current Project Contributions Update<sup>4</sup>

#### **USFS FY2003**

Thompson Park Hazard Tree Removal	\$60,000
Noxious Weed Program	1,000
Thompson Park Cleanup	600
Fence Building (District Work Project)	4,000
Law Enforcement Patrols (annual)	1,000
Permittee Allotment Contribution*	<u>16,430</u>
	<b>\$83,030</b>

\*This would be implemented as part of grant.

#### **Past Contributions to Thompson Park and Blacktail Watershed**

##### USFS

Lime Kiln Road Sediment Control*	\$26,000
Thompson Park Road Obliteration/Rehab*	10,000
OHV Signing	500
Thompson Park Cleanup	4,400
Tunnel/Trestle Closure	500
GPS Trails Mapping	<u>1,100</u>
	<b>\$42,500</b>

\* Special Appropriation above normal funding

##### FY2002 B-SB

#### **Annual Maintenance Activities**

Annual Weed Spraying (along county roads/hillsides) (Ongoing for the last 12 years)	\$ 290
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#### **Road Grading, Plowing and Sanding**

Includes annual grading of Eagles Nest, Lions Den and Archery Range Roads, and Grading, Plowing and Sanding of Roosevelt Drive	\$10,358
Other Incidental Activities in Thompson Park:	
Garbage pickup, vandal repair	<u>\$ 2,000</u>
	<b>\$12,648</b>

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<sup>4</sup> Information provided in a 10/15/03 Errata Sheet provided by B-SB and the USFS and follow-up e-mail to Greg Mullen of NRDP dated 9/3/03.

**The annual maintenance activities listed for FY2002 reflect those activities conducted by the Butte-Silver Bow Local Government on an annual basis. On an average, an annual expenditure of \$12,000 is a reasonable estimate.**

**Special Projects**

Roosevelt Drive - Chip and Seal in 2002 **\$22,947**

USFS – Project Specific Information

**Limekiln Road #8492:** **\$26,000**

Over approximately 1 mile:

- Replaced 1 culvert and installed 2 new
- Graveled road with 1500 yards of gravel,
- Includes grading the road
- Cleaned ditches
- Obliterated one road and removed one bridge
- Installed waterbars on road
- 5 days spent by road crew (3) and 2 district staff

**Thompson Park Road Obliteration/Rehab:** **\$10,000**

Obliterated (bermed, graded, and seeded)  
Several roads within the Park including Eagle’s Nest  
and along Highway 2.

**OHV Signing:** **\$ 500**

Installed signs and vegetative barricades on  
several user created trails off Eagle’s Nest road

**Thompson Park Cleanup** **\$ 6,000\*\***

Seasonal recreation maintenance staff would  
go to recreation sites to pick up garbage and  
remove fire rings in dispersed areas.

**\*\*Updated costs:**

Staff costs are approximately \$100/day – generally staff  
would spend approximately 2 hours per week  
(one trip per week) over a 10 week period per  
year for the past 12 years, patrolling the  
recreation sites and picking up garbage.

**Tunnel/Trestle Closure** **\$ 500**

FS periodically has to close off trestle and tunnel  
over the past 12 years as barricades are moved  
by the public. Closure order on the trestle.

**GPS Trails Mapping** **\$1,100**

FS staff GPS’d all trails that appeared to be  
utilized by the public. (10 days @\$100/day)

### Limekiln Road:

Objective: Reduce and/or eliminate all visible sedimentation into Blacktail Creek from the Limekiln Road and auxillary roads.

Task: Identify all point sources of sedimentation from Limekiln Road (FS. road #8492) from the Continental Divide, north to the forest boundary that is contributing sediment to Blacktail Creek.

Work completed: Main road was widened and gravelled for primary portion of road with problems, spot gravelled in other places; sediment traps and water bars installed; road obliteration of auxillary roads (included removal of bridges and water bar installation).

This work was done ahead of the Lime Kiln Timber Sale proposal as it was known there were sedimentation issues on Blacktail Creek that needed to be corrected before any timber harvest/hauling activity could be proposed. The work was funded through special funding from watershed restoration earmark dollars to the Forest Service.

Location: The Lime Kiln project was a 2-mile project located outside of Thompson Park about 3 miles from the Park (by road).

### Roosevelt Drive:

Objective: Reduce maintenance costs on the road by covering the native road surface with recycled millings from a highway project.

Task: Cover native surface with recycled millings from a local highway project. This included chip sealing the millings afterwards. The project had an added benefit of significantly reducing sediment going into Blacktail Creek due to the elimination of annual road grading and subsequent runoff from the road surface. This was an issue for the FS during the proposal for the Lime Kiln Timber Sale.

Location: 2/3 of this project was located in Thompson Park and 1/3 was outside the park.

# APPENDIX 1

Guide to Comments and Public  
Comments Received During the  
Comment Period

## LIST OF COMMENT LETTERS

<b>LETTER NO.</b>	<b>ORGANIZATION</b>	<b>AUTHOR</b>	<b>DATE</b>
1		Jeff Lefever	09/18/03
2	B-SB Parks and Recreation Dept.	Bob Rowling	09/22/03
3		John and Roberta Ray	10/13/03
4		Michael and Susan Barth	09/24/03
5		Susan Barth	09/23/03
6		Alice Lester	09/23/03
7		Mary McMahan	09/24/03
8		Arthur Gidel	10/10/03
9		Phil King	09/24/03
10		Barbara Miller	09/24/03
11		Alice Lester	09/24/03
12		Steve Schombel	10/13/03
13		Vicki Watson	10/13/03
14		Ruthmeri Gleason	09/25/03
15		EA Johnson	10/07/03
16		Gordon M. Gray M.D.	10/09/03
17		Rep. Ron Erickson	10/07/03
18		Catharine Carey	10/14/03
19		Gail Gutsche	10/14/03
20		Rep. Paul Clark	10/14/03
21		Catherine Everingham	10/14/03
22		Hiltrudis Arens	10/14/03
23	Clark Fork Coalition	Matt Clifford	10/14/03
24		Tom and Nancy Graves	10/10/03
25		Fern Hart	10/12/03
26		David Mildrexler	
27		William Maxson	10/14/03

## LIST OF ORAL COMMENTS AT PUBLIC HEARINGS

<b>COMMENT NO.</b>	<b>ORGANIZATION</b>	<b>COMMENTOR</b>	<b>DATE</b>
PH-1	Butte Silver Bow	Dori Skukrud	09/23/03
PH-2	Butte Silver Bow	Judy Jacobson	09/23/03
PH-3	Butte Silver Bow	John Moodry	09/23/03
PH-4	Butte Silver Bow	Pam Haxy-Cote	09/23/03
PH-5	Butte Silver Bow	Matt Vincent	09/23/03
PH-6		Sen. Dan Harrington	09/23/03
PH-7		Sen. Debbie Shea	09/23/03
PH-8	Butte Silver Bow Commission	John Sorich	09/23/03
PH-9	Butte Silver Bow	Bob McCarthy	09/23/03
PH-10	Butte Silver Bow Commission	Mike Kerns	09/23/03
PH-11	Back Country Horsemen	Charlie O'Leary	09/23/03
PH-12		Dave Lauderman	09/23/03
PH-13		Joe Sologub	09/23/03
PH-14		Pete Madison	09/23/03
PH-15	Butte Local Development Corp.	Evan Barrett	09/23/03
PH-16		Joe Griffin	09/23/03
PH-17	Deer Lodge National Forest	Steve Egeline	09/23/03

## PUBLIC COMMENT SUMMARY TABLE

Category 1: Support for the Thompson Park Project	1; 2; 4; 5; 7; 9; 10; 14; 15; 27D; Public Hearing Comments PH-1; PH-2C; PH-3; PH-4; PH-5A; PH-6; PH-7; PH-8; PH-9A; PH-10A; PH-11; PH-12; PH-13; PH-14, PH-15E, PH-16A; PH-17
Category 2: Support for the Butte Water Project	8D; 13C; 16B, 17C; 18C; 19B; 21D; 22B; 23B; 24C; 25A; 27C; Public Hearing Comments PH-2B; PH-9B; PH-10C; PH-15B
Category 3: Support for the Upper Willow Creek Project	8B; 12A; 13A, 16A, 17B; 18B; 19D; 20B; 21B; 22A; 23A; 24B; 26B; Public Hearing Comments PH-10B
Category 4: Support for the Basin Dam Project	8D; 13C; 16B, 17C; 18C; 19B, 21C, 22B, 23C; 24C; 25B; 27C; Public Hearing Comments PH-2A; PH-9C; PH-15A
Category 5: Opposition to the Thompson Park Project	8E; 12C; 13D; 16D; 17D; 18E; 19E; 21F; 22D; 23E; 24E
Category 6: Support the East Deer Lodge Valley Project	8C; 13B; 16C; 18D; 19C; 20C; 21E; 22C; 23D; 24D; 25C; 26C
Category 7: General Support for the Work Plan	12B; 17A; 19A
Category 8: Comparison of Projects	Public Hearing Comments PH-5B; PH-15D; PH-16B
Category 9: Preference for Natural Resource Related Projects	8A; 18A; 21A; 24A; 26A
Category 10: Fund Fish, Wildlife and Recreation Projects	19F; 20A
Category 11: Forest Service Management	6; 11
Category 12: Fund Mining Related Projects	27A
Category 13: Opposition to Upper Willow Creek	27B
Category 14: Opposition to East Valley	27E
Category 15: Comprehensive Planning	3

# APPENDIX 2

## Comment Letters Received After Public Comment Period

**For copies of the above  
Please contact the  
Natural Resource Damage Program  
Department of Justice  
P.O. Box 201425  
Helena, MT 59620  
(406) 444-0205**

# APPENDIX 3

## Comment Letters Received Prior to Public Comment Period

**For copies of the above  
Please contact the  
Natural Resource Damage Program  
Department of Justice  
P.O. Box 201425  
Helena, MT 59620  
(406) 444-0205**